(17) Production of copies of judgments by parties should not be insisted on for preparing decrees, as the court copies could be referred to. For mistakes in a decree, the clerk preparing it should be held responsible.

(18) Copies of records applied for should be promptly given after the usual notices for production of copying sheets.

(19) Original documents produced in *ex-parte* cases should be destroyed only after the claims were barred by limitation.

(20) Encumbrance certificates should be done away with. If deemed necessary, such certificates should be prepared by a responsible clerk.

(21) Execution processes should be issued the day after application for execution.

(22) *Chellans* for deposit of decree amounts should be issued the day after application and Munsiffs should enquire into causes of delay. Cheques should be prepared in triplicate as of old.

(23) *Amins* who do not carry out eviction orders should be given exemplary punishments.

The member then referred to corrupt practices among *amins*.

DEWAN : Has any *amin* received money from the parties.

The member said it was not a difficult matter to prove. *Amins* freely received money from the parties and they freely asked for money. In cases where money was refused, the parties had to go to the High Court to carry on eviction proceedings. If a High Court Judge were present, the member said he could have represented his grievances. An officer drawing a salary of Rs. 500 had once told him that an *amin* demanded Rs. 15 from that officer.

DEWAN : Why was not that matter reported to the Government ? If you mention the name of the person, necessary steps will be taken.

The member said one had to go to the High Court to represent similar grievances. A party from Parur would find it difficult to go to Trivandrum to present a petition to the High Court. He would prefer the payment of Rs. 10 to the *amin* to a costly journey to Trivandrum. The member thought he could well complain even to the highest authority.

DEWAN : Your time is up.

MEMBER : Munsiffs should be recruited from among vakils.

DEWAN'S REPLY: If the member would choose any three subjects of his representation which he considers to be important and requires immediate remedy and forwards the same to the Chief Secretary, the Government will consider them.

41. Suggestions to avoid delay in the administration of Justice.

MR. SHAIK MAHOMED MOHIDEEN ALIM SAHIB SHAHUL HAMEED SAHIB (*Member, Nominated*) stated that he fully agreed with the suggestions made by Mr. R. Bhagavatiperumal Chettiyar in regard to examination of witnesses, issue of decrees, preparation of diaries, service of processes, preparation and issue of copies of records, production, inspection, custody and return of documents produced as exhibits and transfer of cases from one court to another. He supported also the suggestion that old cases should be disposed of soon and that it should be ruled that no case should be allowed to pend for more than three years. In view to enforce such a rule, the High Court should call for quarterly statements of pending cases from Munsiffs and District Judges and enquire into the causes of delay of cases pending for more than three years and deal severely with the officers responsible for the delay. If the presiding officer was responsible for the delay, his promotion should be barred. It was only by such exemplary punishments that speedy disposal of cases could be ensured.

Although he advocated speedy disposal of cases, he could not support the practice obtaining in Magistrates' Courts of hastening the disposal of cases towards the end of the "quarter months" in the year. Statistics would show that

LIBRARY ARCHIVES Kerala Legislative Assembly

the number of cases disposed of in any one such month was double or even treble the number of cases disposed of in any other month. This was done with a view to escape punishment. One evil effect was that the Magistrates developed a deplorable tendency to summarily dismiss or otherwise dispose of cases at the end of each quarter.

In the matter of delays in civil courts, the clerks were even more responsible than the presiding officers. The bench clerks and the execution clerks took presents from the parties who desired to prolong the pendency of cases either with a view to defeat creditors or to annoy them and thereby coerce them to abandon their just claims. The member made the following suggestions to remedy this state of affairs:—

(1) The clerks should be better remunerated.

(2) They must be seated in the rooms of the presiding officers under their very nose.

(3) Complaints lodged against them should be promptly attended to.

(4) They must be frequently transferred, no clerk being retained in the same court for more than one year. A general transfer should be ordered during the mid-summer vacation of each year.

Another way of reducing the delay was to increase the cost of adjournments. Statistics would show that applications for adjournments were less in the High Court than in the subordinate courts because, in the former, the stamp fee for each application was Rs. 2, while, in the other courts, it was only half a rupee. The member, therefore, suggested that the stamp fee for an application for adjournment in the subordinate courts be fixed at Re. 1. The member concluded by saying that if the Head of the Administration, with his unique equipment for the task, removed this evil of law's delays, his name would be fondly cherished.

DEWAN'S REPLY: You have put many of your proposals in a concrete form so that they may all be referred to the High Court and the opinion of the Judges obtained.

As regards your suggestion to increase the cost of applications for adjournment, I shall put it specifically to the High Court and get their opinion. You will remember that some of the members who preceded you suggested that the cost of making applications for adjournment should be reduced from three and a half fanams. However, I will put your suggestion specifically before the High Court.

In regard to the question of speedy disposal of cases, since you struck a personal note I will give you my personal opinion on the subject. Nothing could be done in the way of disposal of work without the earnest co-operation of the bar.

42. Insolvency Regulation.

MR. R. BHAGAVATIPERUMAL CHETTIYAR (*Member, Trading Classes, Kottar*) said that the number of insolvency petitions was steadily increasing since the passing of the Insolvency Regulation. Prior to the passing of that Regulation, creditors could without much difficulty recover their dues from their debtors. But the Regulation had really made such recovery difficult. It was a source of hardship to the traders in the State. Unlike traders elsewhere, traders in Travancore carried on business with small capital. They bought goods on credit from wholesale merchants on payment of high rates of interest and commissions. With the passing of the Insolvency Regulation, recovery of debts became difficult, with the result that wholesale merchants refused to sell goods on credit. Trade was consequently on the decline and prices of articles had gone up. He therefore pleaded that the Regulation should be repealed. But if the Government were not prepared to do so, he suggested that the defects in its provisions and working should be removed.

As regards the defects in the Regulation, the member first pointed out that it enabled a person to present fraudulent petitions. In view to defeat creditors, the debtors made false pro-notes without consideration, disposed of their property, without receiving consideration, in favour of friends and relatives and after a period of six months presented insolvency petitions. To

LIBRARY ARCHIVES Kerala Legislative Assembly